

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

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**Ethics of Gifts and Gratuities in Law Enforcement**

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**A Leadership White Paper  
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## **ABSTRACT**

This paper explores the ethical dilemma of accepting gifts from the public or businesses while on duty as a police officer. This is relevant because it is a dilemma that occurs very often to uniformed officers, especially when it comes to eating at a restaurant or getting coffee at a store. The actions and decisions that an officer makes during these circumstances are often observed by other members of the public.

Many departments have a strict policy prohibiting the acceptance of any gift or gratuity. These policies are frequently violated; most of the time based on the reasonableness of each different circumstance. The violation of these policies, although often reasonable in nature, undermine every other policy a department has.

This paper explains the difference between a gift and a gratuity, and how this difference relates to a law enforcement officer confronted with this issue. The concept of reasonableness is explored, as is ethical decision making. The paper also differentiates a gift given in good faith, and a gratuity with reciprocity expected.

The thesis of the paper is that strict policies governing an officer's decision making in unique circumstances in general, and the acceptance of gifts specifically, will fail. It points out that officers are tasked with making difficult decisions daily that have enormous consequences, so it is unreasonable to try to make a strict policy on how an officer should pay for lunch. Two different ethical decision making models are introduced, as are examples of determining "reasonableness". The conclusion of the paper is that departments should not have a zero tolerance policy of accepting gifts, but should instead offer guidelines for reasonable behavior in this area.

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## INTRODUCTION

Uniformed law enforcement officers across the nation are faced with an ethical dilemma almost daily (Corley, 2005). This dilemma is almost always witnessed by civilians. The dilemma is whether or not it is ethical to accept small gifts or discounts from other citizens or business owners as appreciation for the difficult career in public service they have chosen. These gifts typically come in the form of a free cup of coffee from a convenience store, a discounted meal at a restaurant, or an appreciative citizen who brings snacks to the police department. This issue has been an ethical issue for decades (Kirchgraber, 2004).

In fact, the Knapp Commission in 1972 addressed the issue (Kenia, 2004). While investigating police corruption issues, the Knapp Commission acknowledged that what they called a gratuity is in a category of its own. The Knapp Commission found that this practice was not necessarily police corruption, but that there are some ethical considerations that need to be made. The research cited in this study often uses the words “gift” and “gratuity” interchangeably (Kenia, 2004).

A distinction should be made between the difference of a gift, a discount, and a gratuity based on modern word definitions and usage. A gratuity is synonymous with a tip, and is defined as “something given voluntarily or beyond obligation usually for some service” (Merriam-Webster Dictionary, n.d.). A gift, on the other hand, is defined as “something voluntarily transferred by one person to another without compensation” (Merriam-Webster Dictionary, n.d.). Finally, a discount is defined as “a reduction made from the gross amount or value of something” (Merriam-Webster

Dictionary, n.d.). Therefore, discounted or gifted meals or drinks given only as a token of appreciation are not a gratuity (White, 2002). They are a gift.

When an officer is confronted with the scenario of a person giving them a gift or discount, many different problems emerge. If the officer accepts the gift in front of other civilians, the officer may worry about the impression he or she leaves on the witnesses. The officer may also worry that the gift is actually given as a gratuity, and that special services may be expected by the giver. The officer may politely refuse the gift, and insist on paying the regular price. This response by the officer is rarely accepted by the giver, and usually leads to a back and forth that draws more attention to the transaction. This may then lead to the giver becoming offended at the rebuff of their gift, especially when the intention is pure. In many cultures, including our own, the refusal of a gift is highly offensive.

The purpose of this paper is to explore the ethics of this everyday dilemma and what type of policies agencies should, or should not, implement. Police officers should be reasonably prepared for offers of gifts or discounts. There should be no department policy that strictly prohibits officers from accepting small gifts of appreciation from citizens or food or drink establishments. Officers should always be prepared to pay for their meals or coffee, should always attempt to pay full price, should never solicit gifts or gratuities, and should attempt to tip a server the amount discounted, should attempt to make an equitable charitable donation if it is available at the restaurant, and should spread out their patronage to a variety of restaurants. Officers should not, however, go to the length of offense to the giver when attempting to turn down a gift or discount. If an officer becomes uncomfortable with the repeated insistence over time of

a discount from someone they believe has unethical intentions, he should go elsewhere. Officers should be trusted with a reasonableness standard, just as they are for uses of force or suspect detentions.

## POSITION

Police officers are entrusted with an immense amount of power and discretion. Any attempt to codify how a police officer must respond in every situation will fail. Because of the dynamic aspect of police interactions, and the slight variations of each circumstance, police officers should simply be instructed to be “reasonable”. Some may say this word is subjective, and should not be used in policy or law. However, the Supreme Court has used “reasonableness” as a standard in two of the most significant law enforcement cases. The search and seizure case of Terry v. Ohio (1968), is still the benchmark case for search and seizure issues. The court found that the frisk of a person for weapons, when there is no probable cause for arrest, is not a constitutional violation as long as the officer has “reasonable suspicion” to believe the subject is armed.

Again, in the landmark use of force case, Graham v. Connor (1989), the court determined that the amount of force a police officer uses should be “objectively reasonable” based on the circumstances. The court recognized that there was no way to legislate every conceivable circumstance from the bench, even though these incidents are occasionally an issue of life or death. The court did not decide, for example, that it was absolutely forbidden to shoot an unarmed man. There are far too many circumstances that need to be considered for each incident including the seriousness of the offense, the number of officers versus the number of suspects, and

the level of resistance by the offender. The court understood that it is unwise to make those determinations from the bench. Issues of this magnitude, examined by the highest court in the land, still ultimately come down to the individual officer behaving “reasonably”.

It is unreasonable, therefore, for an officer to be instructed that he or she does not have the ability to evaluate the reasonableness of accepting a cup of coffee that is offered to them. Officers are trusted with a badge, a gun, the authority to arrest, and the power to use discretion in a wide range of circumstances. They are trusted to make split second, high stakes decisions frequently. They should also be allowed the room to use discretion when it comes to sticky situations such as discounted meals.

A better job needs to be done, however, on educating new officers in the subject of ethics before the first day they are in uniform. They are extensively trained in firearms operation, but use of firearms in the field are extremely rare. In fact, some officers will go their entire career without ever firing at a subject. The offer of discounts, gifts, and gratuities happens almost every time the officer goes out to eat and begins immediately when he starts wearing the uniform. Ethics training should be mandatory for any basic training academy, including motives some retailers may have for making inappropriate offers.

Once the concession has been made that there should be no strict all encompassing policy in reference to the acceptance of gifts on duty, the ethics of the “reasonableness” of the gift then becomes the issue. An easily applied test of ethical reasonableness when confronted with such “gray area” issues is the Bell, Book, and Candle test (Kardasz, 2008). Bell: is to ask the question if there are any warning bells

going off in one's mind signaling that there may be an ethical decision imminent. Book: is to question if there is something in writing that prohibits the action that one has decided to take. Candle: is to question whether one will be satisfied of the decision one has made if it is revealed in the public light. The officer should be prepared to articulate the acceptance of a gift or discount should it ever be questioned.

Using this test, a reasonable officer can easily differentiate the ethics of a discount on a meal, versus accepting monthly sums of cash from a business owner for increased nightly patrols. A similar ethics test would be to ask oneself if the acceptance of the offer is legal and balanced (Blanchard & Peale, 1988). For the frequently used example of a free cup of coffee, a reasonable officer would conclude that the acceptance is legal and balanced. The reasonable officer would also not feel poorly of himself later for this acceptance, and would have no consternation if the public were to view the transaction. Reasonable members of the public would not foresee an officer violating the law or his principles in exchange for such a small offer of a cup of coffee or a half price discount on a burger (Kleinig, 1996).

Some consideration should be given here to the size of the city or county the officer serves. If an officer serving a large metropolitan area refuses to accept any type of gift or discount, the officer could theoretically over time determine which establishments refuse to charge full price. He could then determine which establishments will not insist on a discount, and visit only those establishments. An officer serving a small city, on the other hand, may not have this option. In a small law enforcement friendly city with only a few restaurants, there may be none that will agree to charge an officer full price. There may only be one or two, in which case the officer



would be forced to only go to these thereby not equally distributing his patronage. It would be unreasonable for the officer, or department policy, to take a hard line in circumstances such as these.

If a department, or an individual officer for that matter, has a strict policy that it is absolutely forbidden to accept any gift or gratuity from anyone, it sets the officer up for failure when he is offered a cup of coffee by a victim who is filling out a victim statement (Prinzler, Beckley, & Bronitt, 2013). The same applies to an officer who is handed a cold bottle of water while directing traffic in extreme heat. For most law-abiding citizens, they may only have an interaction with a police officer once every several years. They will talk about this interaction in great detail with their friends and relatives many times. Imagine the story they will tell if they prepare coffee or cookies in anticipation of an officer's arrival to take their report, or hand an obviously overheated officer some water, and the gesture is turned down.

The same would apply with the frequent occurrence of the nice old lady bringing home baked cookies to the police department. If she were spurned, imagine the negative impression this would produce (Sewell, 2007). These examples illustrate the problem with absolute prohibition, and the reason some amount of reasonable allowance should be made. Of course, acceptance of a "reasonable" gift means the gift would be of very little value (Prenzler & Mackay, 1995). A discounted meal or free cup of coffee are, obviously, much different than a television set or large amount of cash. The natural progression of this thought then leads to the question as to how much is too much. This is in the eye of the beholder, and depends entirely on the intent and reasonableness of the officer.

Some may suggest that there should be a dollar limit on what an officer may accept. The problem with this assertion is that there are many circumstances where the acceptance of a gift or discount under the theoretical dollar limit may still be unethical. If, for instance, the officer goes to the same convenience store every day that offers free coffee, it could be said he was taking advantage. A pack of cigarettes could also be under the dollar limit, but would obviously be unreasonable. Therefore, a decision needs to be made on what the definition of too much is. A good test for this is the baldness test. When one looks at a man, and determines he is bald, that determination is not made on a standard for how many hairs on his head make him bald (Kleinig, 1996). There is no set standard for the number of hairs a man has on his head before he is considered bald. A person knows it when they see it. It is the same with evaluating reasonableness.

Some reasons to accept discounts or gifts are they help create a feeling of good will with the community, they are usually too small to be seen as an attempt to corrupt, and they are so prevalent that many businesses insist on the practice. Reasons not to accept discounts or gifts is that they can foster a sense of obligation, some officers lack the ability to use reason, and it can appear unprofessional (White, 2002).

It should be mandatory that these issues are discussed during an officer's field training, then occasionally at shift briefings thereafter. Field training officers should guide new recruits on the ethics and guidelines for when they are inevitably faced with these frequent issues. The new officer should be told what is acceptable, what is not, and who to watch out for. Field supervisors, too, should be monitoring their reports for any sign of patterns that need to be corrected.

## COUNTER ARGUMENTS

There is an opinion that officers should refuse all gifts or gratuities no matter how large or small. Such policies are easy to write, but any policy that has the word “never” related to a daily gray area are difficult to follow while maintaining good community relations. Once an established practice conflicts with policy, then every policy loses merit. A new officer is highly impressionable, and is looking up to the experienced officers to know how to behave. If the department has a strict policy against discounts, but most of the experienced officers have come to accept the practice, this will be confusing to the new recruit. The recruit may think that if the officers are violating this policy, then it is not important to follow policies in general. The experienced officer knows the policy was in good faith, but impossible to follow. The new officer does not have yet have this understanding, and may logically assume that it is not necessary to follow policy at all.

It has been advanced that an agency should prohibit all acceptance of gifts and gratuities, but allow for some common sense (Corley 2005). This position is somewhat related to the “reasonableness” standard above, but sets up the officer and agency for failure by using the words “prohibit” and “common sense” in the same policy. A study revealed that 92% of officers receive some type of gift or gratuity on duty; 81% of the same officers had a department policy that prohibited the acceptance altogether (Kirchgraber, 2004). This is an example where policy and practice separate, and can be confusing to a new officer.

Officers should be allowed to accept gifts when offered in a spirit of non-reciprocity in good faith, but should have the ethical fortitude to know when a gift goes

too far (Del Pozo, 2005). It is common for people to give their postal worker a Christmas present, or their garbage collector cold drinks on a hot day. Many retailers also hold a law enforcement appreciation day where sales are available exclusively to law enforcement. Many also hold a military appreciation day, a service industry appreciation day, etc. These are gifts given out of kindness and appreciation with no expectations attached. So, too, are gifts or discounts ethically accepted by a police officer. There is no reason why these gifts should be prohibited.

Some others would say that the acceptance of any gratuity would go against the Police Officer Code of Ethics which states, in part, "I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities" (IACP, n.d., para. 2). It should be noted that this code of ethics was written by the International Association of Chiefs of Police in 1957 at a time when police corruption was being explored (IACP, n.d.). The association also uses the word "gratuity" which indicates money paid for extra services or considerations. This would tend to toward bribery, which is obviously immoral, unethical, and illegal (Texas Penal Code, 1994). Offers of food or drink for free or at a discount are not, by definition, a gratuity (White, 2002). Gifts given to police officers are not the corruption that the writers were addressing, as receiving reasonable gifts from the public is not the same as a slippery slope into corruption (Kirchgraber, 2004).

One other consideration that should be explored is the perception the public has when they observe an officer accept a gift on duty (Prenzler et al., 2013). The citizen observing the transaction may have the impression that the giver may receive special considerations because of the gift given. This would, at the very least, bring into

question the professionalism of police officers in general (Ruiz & Bono, 2004). This perception could occur regardless of the intentions of the officer or the giver.

What one uniformed officer is seen doing reflects on all officers in the eyes of some in the public. Again, this is where the officer must use discretion in whether to accept a gift, and if he does accept it, the manner in which it is accepted. Strict laws already exist that prohibit bribery and corruption, so this officer discretion would apply to the small gifts of appreciation that are accepted in good faith and not an attempt to influence the officer.

## **RECOMMENDATION**

No law enforcement agency should have a policy that strictly prohibits the acceptance of a gift or discount. Such policies have been tried over and over again, but have failed (Kirchgraber, 2004). There should be room for common sense on the part of the officer. A sample policy is attached as Appendix A. The officer, too, should be ready for these offers by having their own personal policy based on reasonableness, intent, and their own morals and ethics. Officers should carry cash to make up discounts with a tip or charitable contribution. Officers should visit different establishments across their jurisdiction regardless of whether those establishments offer discounts or not. They should avoid the habit of going to the same establish too often if that establishment does offer discounts. This may give the appearance that the officer is there because of a discount instead of there in spite of the discount. This may also lead the business owner to feel that the officers are taking advantage of his generosity.

Ultimately, the reason the officer accepts a gift is what makes the decision ethical or not (Kleinig, 1996). It is unethical for an officer to solicit a gift, discount, or gratuity.

This would be corruption. It is unethical if the officer accepts a gift for financial reasons, in exchange for services, in exchange for looking the other way, or as a habit.

Officers should always be prepared to pay for their meals or coffee, should always attempt to pay full price, should never solicit gifts, discounts, or gratuities, should attempt to tip a server the amount discounted, should never don the uniform simply to be offered a discount, should never pick up food for others in uniform while expecting a discount, and should spread out their patronage to a variety of restaurants. Officers should be trusted with a reasonableness standard, just as they are for uses of force or subject detentions. It is ethical for an officer to graciously accept a token of gratitude from a person or business as long as the intent of both parties is pure.

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## **APPENDIX A**

### Hutto Police Department Policy 2.02(IV)(I)(3)

Soliciting and Accepting Gifts and Gratuities: Employees will not solicit, either directly or indirectly, rewards for performance of duties and will not directly or indirectly ask for gratuities or use their position to solicit favors of any kind. This policy does not prohibit:

- a. Use of coupons or acceptance of discounts that are available to the general public.
- b. Unsolicited discounts or services offered to all officers or employees.
- c. Acceptance of awards given to an employee by a publicly recognized organization in recognition of outstanding service or achievement.
- d. Acceptance of money or gifts on behalf of the department for activities sponsored in whole or in part by the department. (TBP: 2.21)